



## DEPARTMENT OF VETERANS AFFAIRS

8320-01

### 38 CFR Part 1

### RIN 2900-AR19

### Social Security Number Fraud Prevention Act of 2017 Implementation

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule

**SUMMARY:** The Department of Veterans Affairs proposes to amend its regulations implementing the Privacy Act. These revisions would clarify and update the language of procedural requirements pertaining to the inclusion of Social Security account numbers (SSN) on documents that the Department sends by mail. These revisions are also required by the Social Security Number Fraud Prevention Act of 2017, which restricts the inclusion of SSNs on documents sent by mail by the Federal Government.

**DATES:** Comments must be received on or before [insert date 60 days after date of publication in the FEDERAL REGISTER].

**ADDRESSES:** Comments may be submitted through [www.Regulations.gov](https://www.Regulations.gov). Comments should indicate that they are submitted in response to RIN 2900-AR19– Social Security Number Fraud Prevention Act of 2017 Implementation. Comments received will be available at [www.regulations.gov](https://www.regulations.gov) for public viewing, inspection or copies.

**FOR FURTHER INFORMATION CONTACT:** Amy L. Rose, Program Analyst, VA Privacy Service, 005R1A, 811 Vermont Ave., NW Washington, DC 20420, (202) 237-5070. (This is not a toll-free telephone number.)

**SUPPLEMENTARY INFORMATION:**

The Social Security Number Fraud Prevention Act of 2017 (the Act) (Pub L. 115-59; 42 U.S.C. 405 note), which was signed on September 15, 2017, restricts federal agencies from including individuals' SSNs on documents sent by mail unless the head of the agency determines that the inclusion of the SSN on the document is necessary (section 2(a) of the Act). The Act requires agency heads to issue regulations specifying the circumstances under which inclusion of an SSN on a document sent by mail is necessary. These regulations, which must be issued not later than five years after the date of enactment, shall include instructions for the partial redaction of SSNs where feasible, and shall require that SSNs not be visible on the outside of any package sent by mail (section 2(b) of the Act). This proposed rule would revise the Department regulations under the Privacy Act (38 CFR 1.575), consistent with these requirements in the Act. The proposed revisions would clarify the language of procedural requirements pertaining to the inclusion of SSNs on documents that the Department sends by mail.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and

Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at [www.regulations.gov](http://www.regulations.gov).

#### Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601-612). The factual basis for this certification is that the regulation only governs the circumstances under which the Department includes SSNs in mail issued by the Department. The behavior of small entities is not addressed in the regulation and is therefore not impacted. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

#### Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This proposed rule will have no such effect on State, local, and tribal governments, or on the private sector.

#### Paperwork Reduction Act

This proposed rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521).

## Catalog of Federal Domestic Assistance

There are no Catalog of Federal Domestic Assistance numbers and titles for this rule.

## List of Subjects in 38 CFR Part 1

Disability benefits, Pensions, Veterans.

## Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on September 24, 2021, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Luvenia Potts,  
Regulation Development Coordinator,  
Office of Regulation Policy & Management,  
Office of General Counsel,  
Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR 1.575, as set forth below:

## PART 1 – GENERAL PROVISIONS

1. Revise the authority citation for part 1 to read as follows:

AUTHORITY: 38 U.S.C. 5101, and as noted in specific sections.

2. Amend § 1.575 by adding paragraph (d) to read as follows:

### **§ 1.575 – Social Security Numbers in Veterans' Benefits Matters**

\* \* \* \* \*

(d) A document the Department sends by mail may not include the social security number of an individual except as provided below:

(1) The social security number must be truncated to no more than the last four digits; or

(2) If truncation of the social security number is not feasible:

(i) The Senior Agency Official for Privacy, the Chief Privacy Officer, and the Social Security Number Advisory Board (SSNAB) must jointly determine that inclusion of the social security number on the document is necessary as required by law; to comply with another legal mandate; to identify a specific individual where no adequate substitute is available; or to fulfill a compelling Department business need;

(ii) The document that includes the complete social security number of an individual must be listed on the Complete Social Security Number Mailed Documents Listing on a publicly available website; and

(iii) No portion of the social security number may be visible on the outside of any mailing.